

EXHIBIT

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Expert Report of Mitchell W. Brown and Willie R. Williams
Dec. 17, 2018

National Association for the Advancement of Colored People, Inc., et al. v. City of Myrtle Beach, et al., Case No. 4:18-cv-00554-MGL

I. SCOPE OF ASSIGNMENT AND SYNOPSIS OF CONCLUSIONS

We, Chief Mitchell W. Brown and Chief Willie R. Williams, have been retained by Plaintiffs in this case to assess the City of Myrtle Beach's traffic management and law enforcement practices during the Atlantic Beach Bikefest ("Black Bike Week") and compare and contrast them with the City's practices during the Myrtle Beach Bike Week Spring Rally ("Harley Week") and other busy weekends and events during the summer tourist season.

Since 2015, during Black Bike Week, the City has implemented a traffic plan that includes one-way traffic on Ocean Boulevard and a 23-mile loop during the late evening hours. The traffic plan creates a nightmare for bikers, visitors, local residents, law enforcement personnel, and persons who come to enjoy Memorial Day Weekend in Myrtle Beach. The plan is intimidating and makes it virtually impossible to access many sections of Ocean Boulevard. As explained below, our conclusion is that the Black Bike Week traffic plan could only have been designed to frustrate motorists and discourage potential visitors from traveling to the area while it is in effect.

II. QUALIFICATIONS

Mitchell W. Brown

I am a former police chief of Raleigh, North Carolina Police Department with 30 years of law enforcement experience. I am also a retiree of the US Department of Homeland Security Senior Executive Service. During my law enforcement career, I graduated from the FBI National Academy, Northwestern University Police Management Institute, and the FBI National

Executive Institute. Additionally, I am a lifetime member of the International Association of Chiefs of Police (IACP), lifetime member and former board member of the Police Executive Research Forum (PERF), and a lifetime member of the North Carolina Police Chief's Association.

Willie R. Williams

I began my law enforcement career October 1, 1967 with the Rocky Mount Police Department. I am a three-time police chief, having served in Petersburg, Virginia, Wilson, North Carolina, North Carolina Central University, and I currently serve as Interim Police Chief for the city of Rocky Mount. I am an industry expert on management and leadership, and have expertise in designing and implementing Community Based Policing models.

I hold a Bachelor of Arts degree in Political Science and a minor in Education from North Carolina Wesleyan College and am a graduate of the FBI Academy (129th Session) and the FBI Law Enforcement Executive Development Training Program (1994). I am also a graduate of the Southern Police Institute and Municipal/County Government Program at the Institute of Government, University of North Carolina at Chapel Hill.

III. HOURLY RATE

Each of us is compensated at an hourly rate of \$150.00 for preparing and writing this report. We were each compensated \$3,000 per weekend for monitoring special events and holiday weekends in the City of Myrtle Beach plus reimbursable expenses. No portion of these fees are dependent on the nature of our findings or on the outcome of the case.

IV. PREVIOUS EXPERT EXPERIENCE

Litigation

We were both previously retained as experts by the NAACP in the lawsuit it filed in 2003 against the City of Myrtle Beach for the City's practices during Black Bike Week, *National*

Association for the Advancement of Colored People, Inc., By its Conway Branch, et al. v. City of Myrtle Beach, et al., Case No. 4:03-1732-25TLW.

Other Expert Retentions

Chief Brown

- Law enforcement consultant since 2016 with the Consent Decree Monitor for the US Department of Justice under a federal court order levied on the City of New Orleans Police Department and the City of New Orleans.
- Law enforcement consultant for five years with the US Department of Justice monitoring the City of Washington, D.C. and the City of Washington, D.C. Metropolitan Police Department.
- Consultant for PERF (Police Executive Research Forum) to improve police community relations in the City of Kingston, Jamaica and to address issues of race and diversity in the Kansas City Police Department.
- Conducted assessment of Evanston, Illinois Police Department's operational procedures to enhance the overall operational efficiency and effectiveness.

Chief Williams

- Law enforcement consultant providing expertise and analysis on law enforcement traffic patterns, practices, and law enforcement research for a police agency in South Carolina.
- Law enforcement consultant for a university police department in North Carolina, the Sharpsburg Police Department, and the Chattanooga Tennessee Public Housing Police Department.

- Trainer and facilitator for new police chiefs through the Southeastern Community Oriented Policing Education Institute (SCOPE) at the University of Tennessee, sponsored by United States Department of Justice.

V. DOCUMENTS AND INFORMATION REVIEWED/RELIED ON IN PREPARATION FOR THIS REPORT

Our conclusions are based principally on our in-person monitoring and observations of Black Bike Week and Harley Week in 2017 and 2018, as well as Sun Fun Festival, July Fourth, and Labor Day Weekend in 2018. Our conclusions are also informed by our previous expert work which spanned 2002-2004, during which we attended Black Bike Week and Harley Week each year, and the Sun Fun Festival, July Fourth, and the Harley Fall Rally in 2002. Chief Williams has also attended both Black Bike Week and Harley Week almost every year between 2004 and the present.¹

We were also provided the following documents: 2015 Memorial Day Weekend Bikefest After-Action Report (Doc. 24-10); 2016 Memorial Day Weekend Bikefest After-Action Report (Doc. 24-11); Black Bike Week Traffic Loop Map (Doc. 29-31); 544 Flush Plan (DEF00040345-72); Hwy 31 Flush Plan North (DEF00040588-605); City of Myrtle Beach Police Department Motorcycle Rally Statistical Report (DEF00072090-91); Horry County Stats for 2015 Bikefest (DEF00078083-88); Traffic Unit Stats for Harley Week (DEF00567799-801); HD and AB Bike Week RMS Status Sunday-Saturday (NORTH_MYRTLE000743).

¹ For ease of writing and readability the report uses “we” in describing our observations. The specific dates of attendance by each of us is as follows: Chief Brown attended both Black Bike Week and Harley Week 2002-2004 and 2017-2018 as well as Labor Day 2018; Chief Williams attended Harley Week in 2017 and Black Bike Week, Harley Week, Sun Fun Festival, and the weekend before July Fourth in 2018. He has also previously attended busy summer weekends including Sun Fun Festival and July Fourth as well as the Harley Fall Rally.

VI. REPORT

Our analysis of Black Bike Week, Harley Week, Sun Fun Festival, July Fourth, and Labor Day had two main areas of focus. First, we evaluated the traffic and crowd control management plans put in place by the City along Ocean Boulevard and King's Highway at various times. Second, we assessed the City's law enforcement practices and methods. We observed police enforcement actions or lack thereof, crowd size and behavior, law enforcement responses to crowd behavior, and the number of deployed law enforcement officers during different events.

Our conclusion is that the traffic plan used by the City of Myrtle Beach during Black Bike Week (initially put in place in 2015 and used each year since then) does not facilitate the free flow of traffic, minimize gridlock, or provide for public safety. The traffic controls instead exacerbate traffic problems and gridlock, provoke anxiety and frustration for bikers and motorists, and create an environment that undermines public safety. We also conclude that there is a more visible, significantly larger, and more aggressive police presence during Black Bike Week than during Harley Week, Sun Fun Festival, July Fourth, or Labor Day ("other special events").

A. Traffic Controls and Law Enforcement During Other Special Events

Our observations of Harley Week in 2017-2018 and other special events in 2018 revealed that the City of Myrtle Beach did not put in place special traffic management procedures for any of these events. Ocean Boulevard had all lanes open to traffic in both directions and motorists could turn from the road at intersecting streets. There were few police officers present along the route. We also observed individuals committing minor traffic violations, such as speeding,

changing lanes without following proper procedures, or playing loud music, who were not stopped or cited by law enforcement.

During Harley Week in 2017 and 2018 we drove the route of the 23-mile loop that was later implemented during Black Bike Week. There was no indication of any special traffic control efforts by law enforcement along the route.

B. Traffic Controls and Law Enforcement During Black Bike Week

During Black Bike Week, held May 26-29, 2017 and May 25-28, 2018, between one and three lanes of Ocean Boulevard were closed to traffic from the intersection of Ocean Boulevard and 29th Avenue North to the southern terminus of Ocean Boulevard where it intersects with Kings Highway at Myrtle Beach State Park. Along that five-mile length of Ocean Boulevard, only one, southbound lane was open to traffic. Most cross streets that intersect Ocean Boulevard were barricaded, and turns onto those streets were prohibited. These traffic controls created a heightened level of traffic congestion by significantly, and unnecessarily, cutting the road capacity. The traffic controls dramatically increased drive times along Ocean Boulevard and made navigation around the area extremely difficult.

The 23-mile loop began at the intersection of 29th Avenue North and Ocean Boulevard and ran south along the length of Ocean Boulevard until it intersects with Kings Highway. Motorists were then forced to travel north on Kings Highway until turning left on Harrelson Boulevard. The loop followed Harrelson until after it becomes George Bishop Parkway and intersects with South Carolina 501. The loop traveled west on 501 until the intersection of South Carolina 501 and 31 (the Carolina Bays Parkway). At that point, drivers could exit the loop and leave the area. However, drivers seeking to return to Ocean Boulevard would have to travel north on the

Carolina Bays Parkway until they turned onto the Robert Grissom Parkway, which returned drivers to a point where the loop turned left on 29th Avenue North and back to Ocean Boulevard.

The loop forced any driver entering Ocean Boulevard at 29th Avenue North or anywhere south of that point to drive the entire length of the loop or leave the loop at the 501 and Carolina Bays Parkway exit. Turns onto Ocean Boulevard from intersecting roads were prohibited as were turns off of Ocean Boulevard onto intersecting roads. Myrtle Beach visitors exiting restaurants, hotels, or other businesses along Ocean Boulevard were only permitted to turn south onto Ocean Boulevard where they would be forced into the loop.

We observed that the loop created significant logistical difficulties for motorists trying to travel in the area, increased travel times, and forced motorists travelling short distances to detour far out of their way to reach their destinations. This confusion was exacerbated by the fact that in 2017 the loop began prior to 10 p.m. despite the City's statements that the loop would begin at 10 p.m.

Pedestrians also faced significant difficulty in navigating Ocean Boulevard during Black Bike Week as there were barricades along the sidewalks on Ocean Boulevard from 29th Avenue North to 29th Avenue South. As a result of these barricades, the movement of pedestrians was limited and restricted.

During Black Bike Week we observed a large and very visible increase in the number of law enforcement officers policing and monitoring the area. We observed numerous motor vehicle traffic stops along Ocean Boulevard and elsewhere in the City of Myrtle Beach. During Black Bike Week we observed numerous officers peering inside of vehicles in stopped traffic along Ocean Boulevard. The number of law enforcement officers in the Myrtle Beach area created a very intimidating atmosphere for visitors during Black Bike Week.

C. Comparison of Black Bike Week to Harley Week and Other Special Events

In comparing Black Bike Week to Harley Week 2017-2018 and the other special events in 2018, we did not observe anything that justified the different traffic plans put in place by the City during Black Bike Week as compared to the other special events. In fact, Ocean Boulevard and other area streets experienced better performance with no traffic restrictions in place during the Harley Weeks and the other special events than with the traffic restrictions put in place during Black Bike Week.

Notably none of the other events employ a 23-mile traffic loop that forces visitors out of the area and severely impedes access to business, hotels, and restaurants on Ocean Boulevard.

During each of these weekends, we also drove the length of Ocean Boulevard from 29th Avenue North to 29th Avenue South. With the exception of Black Bike Week, the traffic flow was within normal tolerance levels for all of the other events. Even when traffic was heavy during Harley Weeks and other special events, we generally observed continuous movement, which we attribute to motorists having complete access to cross streets with omnidirectional options. This access to cross streets and omnidirectional options are not available during Black Bike Week, and the traffic on Ocean Boulevard can only be described as horrendous.

We also saw nothing that justified the dramatic change in law enforcement presence that we observed between Black Bike Week and the other special events. There were significantly more law enforcement officers present in the Myrtle Beach area during Black Bike Week than had been present during Harley Week or other special events. The law enforcement activities during Harley Week and the other special events are lax in comparison to Black Bike Week. We also observed that for visitors to the City of Myrtle Beach, none of the other weekends share the intimidating law enforcement atmosphere that occurs during Black Bike Week.

We also observed nothing that justified the extensive use of pedestrian barricades to limit, restrict, and control pedestrian movement during Black Bike Week. We observed nothing that justified the amount of pedestrian barricades on Ocean Boulevard, particularly when other weekends, such as Labor Day, saw significant pedestrian crowds along Ocean Boulevard but did not have anywhere close to the same level of restriction as Black Bike Week.

Attendance at these events will vary from year to year depending on weather conditions and other factors. For example, in 2018 there were bad storms throughout Harley Week leading to significantly reduced attendance. In some years we have not observed any significant difference in the number of attendees of Harley Week events compared to Black Bike Week events. Similarly, we have not seen anything about the behavior of the visitors during Black Bike Week or the crowd behavior that was substantially or significantly different from what we observed during Harley Week. While Black Bike Week and Harley Week do bring more motorcycles to the area, we have not seen anything about the behavior of visitors during Black Bike Week as compared to the other special events that would explain the difference in traffic management or law enforcement practices of the City of Myrtle Beach. Both Black Bike Week and Harley Week have a majority of organized events occurring outside of the City of Myrtle Beach (Atlantic Beach and Murrell's Inlet respectively) and the driving habits of the motorcyclists during the two weekends are similar.

One difference we did observe is that the crowds during Harley Week and the other special events were predominantly white, while the crowds during Black Bike Week were predominantly African-American.

D. The City's Traffic Management and Law Enforcement Practices During Black Bike Week are Unwarranted and Counterproductive to Public Safety

In our opinion, the current Black Bike Week traffic plan (including reducing Ocean Boulevard to one lane, shutting off multiple exits from Ocean Boulevard, and imposing a 23-mile traffic diversion loop) has a harmful impact on traffic and unnecessarily restricts the freedom of movement of Black Bike Week attendees. The current Black Bike Week traffic plan serves no useful purpose. It does not facilitate the flow of traffic or enhance safety and is in many respects counterproductive to these goals. Significantly reducing the capacity of a main popular thoroughfare, leaving traffic controls in full operation, and limiting turns from the road when there is an *increase* of traffic on the road violates all basic traffic management principles. Similarly, in all of our decades of law enforcement experience we have never encountered a traffic plan that comes close to imposing the inconvenience and frustration that is created by the City of Myrtle Beach's 23-mile traffic loop during Black Bike Week.

City officials have indicated that the traffic pattern was implemented in response to shootings that occurred in Myrtle Beach during the 2014 Black Bike Week. Those officials also indicated that the shootings were related to gang violence. Traffic patterns are not a deterrent to gang and gun violence. If they were, police chiefs throughout the United States would use traffic patterns in their jurisdictions to help curb the gang violence which is happening everywhere in the country.

City officials also indicated that the traffic pattern increased the visibility of law enforcement during Black Bike Week. To the extent additional police visibility is necessary for an event, it should be accomplished through personnel deployment and assignment and not traffic patterns.

We have reviewed the crime statistics produced by the City of Myrtle Beach in discovery in this case. Those statistics demonstrate that there has been no significant change in the number of

crimes from before the 2015 traffic plan was implemented to after the plan was implemented. The statistics therefore confirm that the traffic plan has not resulted in an overall decrease in the number of crimes and is not serving a crime reduction purpose.

There is also no indication that the City's emergency personnel need to reduce traffic to one southbound lane on Ocean Boulevard to allow emergency vehicle access. We observed that during Black Bike Week, there were vehicles using the emergency access lane for "cruising" rather than for emergency response. Ensuring effective emergency response should be accomplished in a comprehensive tactical event plan, and from our observations, similar plans could be used for Black Bike Week as are used for the other busy time periods during Harley Week and the other special events.

The proper process for developing a public safety or traffic safety plan for a large public event requires the careful examination of a number of factors beforehand, including identifying the public safety and traffic issues that might arise, the emergency response times, the needs of the event and the community, and the likely ingress and egress points for traffic.

During the event, a jurisdiction should gather data and information from participants and stakeholders in order to assess whether and how the particular traffic and safety goals for the event are being achieved. After the event has concluded, the jurisdiction should systematically review and analyze the data and information collected, and prepare an "after-action" report.

After-action reports are critical to successful event planning. For recurring events, after-action reports allow the public safety planners to learn from one event and implement changes that will increase public safety and better serve the needs of the event during subsequent events. We have reviewed the After-Action Reports submitted by the City for Black Bike Week and believe they do not serve a significant number of the purposes of after-action reports.

In assessing the traffic loop, the Reports did not even consider the failure of the loop to eliminate traffic congestion or to keep traffic moving. The Reports did not consider the effect of the loop, the one-way traffic pattern, or the dedicated emergency lane on the ability of EMS personnel to respond to emergencies. In other words, the Reports did not consider if the traffic plan actually advanced its stated goals.

The Reports also did not consider the needs of the event or its participants. Even when the Reports recognized the harmful aspects of the loop on the event and its participants, no plan for improvement was recommended. For example, the 2016 Report recognized “more complaints to the [police department] due to the loop traffic.” Rather than assessing how to reduce loop traffic, the Report proposes establishing a phone line and email distribution to receive the complaints.

It is our opinion that there are other traffic control measures that the City could implement to reduce traffic congestion, including flush-out plans and traffic chutes that would not have the same negative effects as the current traffic plan and would provide for emergency access when necessary. The City of Myrtle Beach in fact already includes flush-out plans to manage traffic congestion in operational plans for other special events where there is significant traffic on Ocean Boulevard. The After-Action Reports for Black Bike Week, however, do not even consider alternatives.

After learning from the City around 2003 that it developed its original Black Bike Week traffic plans based on how other jurisdictions developed and employed public safety and traffic plans for large bike festivals, we travelled to Daytona Beach, Florida to observe Daytona Bike Week and Galveston, Texas to observe the Lone Star Rally. The most significant aspect of the operations plans used for those events is that the plans are designed to facilitate traffic and to improve the events. In contrast, the most significant effect of the operations plan for Black Bike

Week is that it interferes with the event and has a harmful effect on the movement and flow of traffic.

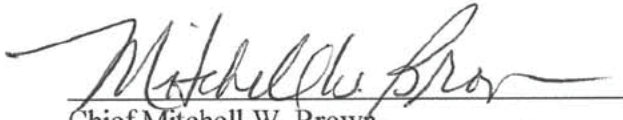
E. Conclusion

We have attended, supervised, and planned strategies for major events involving large volumes of participants during our careers. We have never seen a plan that is so blatantly designed to frustrate event participants.

Participants can very easily conclude that the 23-mile loop traffic pattern was implemented for punishment. It is intimidating, creates anxiety, and makes it almost impossible to navigate to parts of Ocean Boulevard. This traffic loop created significant logistical difficulties for motorists trying to travel in the area, increased travel times, and forced motorists traveling short distances to detour far out of their way to reach their destinations. We are unable to identify one thing this pattern adds to the flow of traffic. It does the opposite; once you get on the pattern, it takes hours to get off.

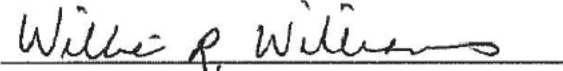
In addition, we have not seen anything related to the behavior of the visitors during Black Bike Week as compared to Harley Week or the other special events that makes it necessary for the City of Myrtle Beach to bring in hundreds of officers for traffic and crime control. This creates an intimidating and frightening environment for visitors to the area.

Our conclusion is that the City of Myrtle Beach's traffic management and law enforcement practices during Black Bike Week could only have been designed to frustrate motorists and discourage potential visitors from traveling to the area while it is in effect.



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